



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: YAMAMOTO=16A

In re Application of: ) Art Unit: 1652  
YAMAMOTO et al. ) Examiner: C. L. Fronda  
Appln. No.: 09/435,770 ) Washington, D.C.  
Date Filed: November 8, 1999 ) Confirmation No. 5666  
For: NON-REDUCING SACCHARIDE- ) October 28, 2005  
FORMING ENZYME... )

DECLARATION OF BIOLOGICAL MATERIAL DEPOSIT

Honorable Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building, Mail Stop  
401 Dulany Street  
Alexandria, VA 22314

Sir:

I, TOSHIO MIYAKE, hereby declare and state that:

1. The following biological material, referred to in the specification of this application, has been deposited and has received the following accession number(s) by the depository:

Acinetobacter sp. S34  
strain

FERM BP-6450  
accession number

2. The above deposit were made on August 31, 1998,  
which were:

(check appropriate item below)

X before the effective filing date of this application.

after the effective filing date of this application and a verified statement pursuant to 37 CFR 1.804(b) is attached hereto, stating that the biological material which was deposited is a biological material specifically identified in the application as filed.

3. The name and address of the depository is:  
NATIONAL INSTITUTE OF BIOSCIENCE AND HUMAN-  
TECHNOLOGY

AGENCY OF INDUSTRIAL SCIENCE AND TECHNOLOGY  
1-3, Higashi, 1 chome, Tsukuba-shi, Ibaraki-ken  
305-8556, Japan

4. The biological material deposit is capable of self-replication, either directly or indirectly, and  
(check appropriate item below)

X The deposit of the biological material described above was made and accepted under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (hereinafter Budapest Treaty) and therefore the filing of a viability statement is unnecessary (37 CFR 1.807(b)).

A statement that the biological material deposited with the above named depository was viable and was capable of reproduction on the date of deposit is attached. Such is executed by:

(complete a, b or c below)

- a. \_\_\_\_ the depository
- b. \_\_\_\_ the applicant
- c. \_\_\_\_ a competent third party

5. With respect to the permanence of the biological material deposit:

(check appropriate item below)

X

The depository is an official depository in accordance with the Budapest Treaty and the deposit of the biological material described above was made and accepted under the Budapest Treaty such that samples will be available beyond the enforceable life of the patent for which the deposit was made.

— The contract with the above-mentioned depository with respect to the deposited biological material provides that the depository will afford permanence of the deposit for at least 30 years and at least 5 years after the most recent request for the furnishing of a sample of the deposit was received by the depository, samples being available beyond the enforceable life of the patent for which the deposit was made.

I affirm that should the depositor be notified by the depository that it either cannot furnish samples thereof or can furnish samples thereof but the deposit has become contaminated or has lost its capability to function as described in the specification, depositor will proceed in accordance with 37 C.F.R. § 1.805

6. With respect to availability of the biological material, I affirm that the deposit has been made under conditions that assure that (a) access to the deposit will be

available during pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 CFR 1.14 and USC 122, and (b) subject to 37 CFR 1.808(b), all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of the patent.

7. I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

TOSHIO MIYAKE

Type or print name of person signing

Oct. 28, 2005  
Date

Toshio Miyake

Signature

Inventor  
 Assignee of complete interest  
 Person authorized to sign on behalf of the assignee

KABUSHIKI KAISHA HAYASHIBARA SEIBUTSU KAGAKU KENKYUJO  
Type name of assignee

2-3, 1-chome, Shimoishii, Okayama-shi, Okayama, Japan  
Address of assignee

Title of person authorized to sign on behalf of assignee: